

REMARKS

This responds to the Office Action mailed on November 3, 2006.

Claims 1-32 are now pending in this application.

Applicants have reviewed and considered the Office Action mailed on November 3, 2006, and the references cited therewith. Applicants respectfully request reconsideration and allowance of all claims in view of the following remarks.

Claim Objections

Claim 8 was objected to because it contained a typographical error. The claim has been amended herein to correct the error. Applicants respectfully request withdrawal of the claim objection.

§102 Rejection of the Claims

The Office Action rejected claims 1-20 under 35 U.S.C. § 102 as anticipated by Friend et al. (U.S. Publication No. 2001/0032165, hereinafter, "Friend"). Applicants respectfully traverse these grounds for rejection for the reasons argued below.

Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). It is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, "[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, arranged as in the claim." *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added).

Applicants respectfully submit that the Office Action did not make out a prima facie case of anticipation because Friend does not teach each and every element of Applicants' claims, arranged as in the claims.

Claim 1 recites: "... receiving first and second search criteria from a user; and presenting the user with an option selectively to include and exclude each of the first and second search criteria from a search query run against the database."

In contrast, Friend merely describes receiving user indications such as category, subcategory and type of commodity, status, size, etc. via various drop-down and keyboard entry fields.

For example, the following passage references Figure 10:

The user would indicate, through drop-down menus corresponding to the categorical, hierarchical organization of the system, what category, subcategory and/or type of commodity is being sought. The keyboard entry field allows the user to indicate a variety of the commodity if varietal information is relevant.... In a manner similar to the exemplary embodiment of FIG. 9, the exemplary request screen contains fields in which a requestor might indicate a desired commodity status, packing style, size and grade/quality index. Additional data entry fields allow the requestor to input a desired price, quantity and/or weight... (Para. 91, lines 6-11, and 18-24).

Applicants respectfully submit that the screen shot of Figure 10 and the accompanying specification text, such as the passage cited above, does not teach "presenting the user with an option selectively to include and exclude each of a first and second search criteria [received from the user] from a search query run against the database" as required by claim 1 because no such option is shown in either Figure 10 or any of the preceding screen shot Figures 7a, 7b, 8, or 9, nor described in the any specification referencing those figures.

For example, in addition to that of Figure 10, several search screens are illustrated and described by Friend, having functionality similar to that illustrated in Figure 7a. The search screen illustrated in Figure 7a is described as follows:

The search screen is divided into five data entry fields, three of which are cascade menu driven; a "search for" field, a "key word" field, a "within" field, a "city" field and a "state" field. The "search for" field is menu driven, in that the hierarchical categorical organization of the database is represented within a set of cascading menus, such that a user might easily develop which top-level category, elemental category and subcategory they have an interest in. In addition to a categorical search field, the simple

search frame represented by the exemplary embodiment of FIG. 7a includes key word searching capability, in which a key word data entry field might be filled with any particular key word or key words associated with the product type specific to the user requirements.... Once the user has identified the search parameters, a "go" button launches the search of the database (Para. 78, line 20 – 34 and 42 - 44).

This passage does not disclose "presenting the user with an option selectively to include and exclude each of a first and second search criteria from a search query run against the database" as required by claim 1. Rather, Friend merely illustrates and describes a search screen having various cascade menus and data entry fields, and a button to launch a database search. The search of the database thus launched always includes *all* of the search parameters. There is no described capability to exclude any of these search parameters. In other words, Friend does not include a presentation of "an option selectively to include and exclude each of the first and second search criteria from a search query run against the database," as recited in claim 1. Claim 1 of the present application specifically states that the first and second search criteria be received from a user, and that the user then be provided with the option to selectively include or exclude each of the first and second search criteria, received from the user, from a search query against the database.

Additionally, portions of the Friend specification referring to other Figures illustrating search screens (e.g., paragraphs 79-82 and 91-93) similarly do not teach presenting the user with an option selectively to include and exclude each of a first and second search criteria from a search query run against the database, as recited in claim 1.

Thus, Applicants respectfully submit that Friend does not teach all the elements of claim 1.

Independent claims 12 and 22 recite substantially similar limitations to those of claim 1 and are thus patentable over Friend for at least the same reasons argued above with respect to claim 1. Claims 2-11, 13-21, and 23-32 are dependent on claims 1, 12, and 22, respectively, and are thus patentable over Friend for at least the same reasons argued above.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at 408-278-4042 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Reservation of Rights

In the interest of clarity and brevity, Applicants may not have addressed every assertion made in the Office Action. Applicants' silence regarding any such assertion does not constitute any admission or acquiescence. Applicants reserve all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicants do not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicants timely object to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicants reserve all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

Respectfully submitted,

BART MUNRO ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.

P.O. Box 2938

Minneapolis, MN 55402

408-278-4042

Date May 3, 2007

By Andre L. Marais

Andre L. Marais

Reg. No. 48,095

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 3 day of May 2007.

Name

Patricia R. Keri

Signature

Andre L. Marais